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Transitional Justice in Chile:

The role of truth and reparations in a context of limited justice for past human rights violations

Summary:

Transitional justice may adopt a Nuremberg Trial model, when imposed from a victorious external power, or a highly constrained form when resulting from negotiated transitions where the outgoing regime retains considerable power. The Chilean case, with its 1990 Truth Commission and 1992 Reparations Corporation, belongs to the second case. In Chile, truth and justice followed parallel tracks and, despite the limited achievement of justice as punishment of perpetrators of human rights violations, considerable reparations have been granted to victims and their relatives. Truth and reparations, instead of downplaying the request for retribution, seem to have contributed to modestly increase it.

Work in progress presented at the New School University's Political Science Annual Student Conference: "In the Name of Democracy: The Boundaries of the Political"

New York May 1-2, 2003.

1. Two models of transitional justice

After World War II, the Nuremberg and Tokyo trials assessed crimes perpetrated by the defeated German and Japanese regimes with judges appointed by the victorious powers. High-ranking political and military personalities were judged and punished. New democracies of the 1980's and 1990's addressed transitional justice in a different way. More concerned with truth and reconciliation than with criminal prosecution and constrained by the outgoing regime, they often had recourse to truth commissions.

Transitional justice in negotiated transitions has to deal with constraints that do not exist in cases where the former regime was defeated by force. The way new democracies address human rights violations committed in the past is shaped by the bargaining power of the outgoing regime. In Germany or Japan after World War II, trials resulted in punishment of high-ranking perpetrators. But when the outgoing regime retains high bargaining power and military force, the new regime needs to compromise in a different transitional justice model.

In Argentina, transition did not occur by force, as in post-World War II Germany, nor as the result of a negotiation, as in Chile, but by the collapse of the authoritarian regime (Nino 1996, p. 107). After the return to democracy, in 1984, President Raúl Alfonsín from the Radical Party applied a Nuremberg scheme of justice to punish the military recently defeated by Great Britain in the Falkland/Malvinas war.

The initial attempt to punish perpetrators had a rapid backlash, and amnesty was granted to most of them. "In contrast to the situation after World War II, the perpetrators of past atrocities in Argentina had not lost their monopoly on weapons within the country. Their military humiliation was the main factor that debilitated them and thus permitted some measure of punishment. However, the limits of the government's ability to punish members of the military soon became apparent" (Zalaquett 1992, p. 1428). As a result, the next government, headed by President Carlos Saúl Menem from the *Justicialista* (Peronist) Party, approved several pardons, allegedly going beyond his constitutional attributions and even beyond political need (Nino 1996, p. 104).

Julio Samuel Valenzuela (Lecture 2002)¹ contrasts the Nuremberg Trial model to what he calls the institutional or reconstruction model. In the Nuremberg model, he claims, a power is defeated. Prosecution focuses on the heads of the former regime. Transition is rapid and shaped by victorious external forces. The principle of non-retroactivity may not apply (new laws are put in place, new crimes are defined by external judicial agents). There is a purge of the state, and the doors of the jails are opened to free prisoners from the former regime.

In the institutional model, in contrast, prosecution occurs at all levels depending on the judicial evidence, instead of at the top of the line. Sentences tend to get harsher as time advances. Transition occurs under the existing legal apparatus. The judiciary remains in

¹ Lecture by J.S. Valenzuela at CUNY, May 6, 2002: "Human rights in transitions to democracy: reflections on post-Pinochet Chile".

place and the judges of the old regime perform a slow reconstruction of the judicial system, with respect for the principle of non-retroactivity. There is low or no lustration at all, and the need for political legitimacy brings a search for reconciliation, for a consensual version of the truth about the past. What to do and how to manage political prisoners is a dilemma.

Within and "institutional" or "reconstruction" model, truth commissions were an innovative and pragmatic response to the need to address human rights violations by former regimes in the context of negotiated transitions to democracy. Truth commissions, with their emphasis in the truth, seem to have resulted in less capacity to punish perpetrators as a trade-off for confession.

In view of their results in more than 21 cases, "(...) skeptics have raised four types of general objections to the work of truth commissions: that history is so murky and subjective that even well-intentioned investigations cannot establish anything that should actually be called, with a straight face, "truth"; that the panels too often focus on individual violations rather than broad structural problems; that their work does not lead to reconciliation; and that they interfere with, and distract attention from, the prosecution and punishment of past crimes". (Tepperman 2002, p. 139)

The negotiated character of "third wave" transitions to democracy made the Nuremberg model unfit for countries that had to address crimes from the past with constraints such as strong prerogatives by the outgoing authorities, a judiciary that was an accomplice to the crimes, legal and institutional restrictions that formed part of the compromises made by the new authorities to achieve democracy peacefully.

The institution has been criticized for the willingness to renounce to justice in the name of reconciliation, a tit-for-tat where punishment is given up in the name of a shared historical truth. The trade off between truth and justice may be considered a betrayal in the name of ensuring pacific access to power. In addition, those who negotiate have personal interest in easing the way to democracy, since they are the ones called to lead the country under the new regime.

"Truth commission advocates such as Priscilla Hayner and Alex Boraine, both of whom are now professional truth-commission consultants at the ICJT², deny there is any necessary opposition between commissions and trials. The two processes, they argue, are complementary, not mutually exclusive" (Tepperman 2002, p. 143) Tepperman rejects this defense, arguing that "although there may be no inherent or necessary opposition between truth commissions and trials, the former do seem to make the later less likely" (Tepperman 2002, p. 144).

Such a trade-off clearly existed in South Africa, where the Commission had the power to grant amnesty. I argue that this was not the case in Chile. I suggest that Chile's truth commission did not trade justice for truth, although it did privilege truth at the first stage.

² International Center for Transitional Justice, <http://www.ictj.com>

The Chilean Truth and Reconciliation Commission -known as Rettig Commission after its president, Raúl Rettig- considered truth and justice as parallel tracks. The commission addressed only truth, leaving justice to the courts.

Political changes that began in the mid 1980's allowed for modest increases in the amount of retribution and for considerable reparations to victims of human rights violations and their relatives.

The reform of the judiciary power under President Eduardo Frei (1994-2000) and the arrest of General Augusto Pinochet in London contributed to create better conditions for justice, both in terms of punishment and in terms of reparations.

Shortly after participating in the Rettig Commission, Chilean human rights lawyer José Zalaquett wrote that "political situations are far from static, and if the new government consistently follows the best possible approach, despite being limited by the circumstances it faces, new possibilities may open up along the way" (Zalaquett 1992, p.1431).

Chile's truth and reconciliation commission was primarily concerned with establishing a state-sponsored version of the truth, as well as symbolic reparations to victims such as a memorial for the disappeared in the General Cemetery, where bodies were found. Justice was to be addressed by the tribunals and reparations given through different offices of the state –such as the Health Ministry, National Pensions Institute and Education Ministry- under coordination by the Reparations and Reconciliation Corporation, a successor of the Rettig Commission created with Congress approval in 1992³.

After more than a decade, Chile's transitional justice is notorious for the amount of reparations, in comparison with other cases where truth commissions operated. "In Chile, where the terms of the transition proscribed the criminal prosecution of former officials – and the sense of justice and catharsis which might be achieved thereby- the new democracy undertook instead one of the most comprehensive programs of compensation and rehabilitation of those described herein, encompassing life-long pensions for the survivors of those who died in General Pinochet's prisons, compensations for prison time and for lost income, educational benefits, a national network of medical and psychological services for victims and their families, and exemptions from military service". (Kritz 1995, p. xxxvii)

Criticism of transitional justice in Chile points to the lack of criminal prosecution of high-ranking military officers involved in human rights violations, most notably of former head of state General Augusto Pinochet. The number of military in prison is in the tens, and few serving time are the intellectual perpetrators of crimes. The most symbolic of those cases was the prison sentence given to former head of the secret service, DINA (*Dirección Nacional de Inteligencia*), General Manuel Contreras, and of Brigadier Pedro Espinoza for the assassination of former Foreign Minister Orlando Letelier, in Washington DC, in September 1976.

³ Law No. 19,123 of January 31, 1992.

The passing of time has made fear disappear. Consolidation of democracy -even of a democracy with a strong legacy of non-democratic institutions- makes the idea of regression to dictatorship an unbelievable threat. But while punishment is today more plausible than ten years ago, time also plays against justice because perpetrators and victims are increasingly too old or dead. Thus, General Pinochet was acquitted from trial for the Caravan of Death case by the Supreme Court in July 2002 on the grounds of being mentally unfit to stand trial. He then voluntarily resigned his seat at the Senate.

In the area of reparations, time decreases the amounts assigned to victims and their relatives. Reparations are expected to expire around the year 2030, because for-life beneficiaries will die and others will no longer qualify as recipients.

In Chile, justice in human rights violations has not been achieved because of three major obstacles: an obstructionist judiciary power, the excessive military courts jurisdiction, and the 1978 Amnesty law. Compensations, on the contrary, were immediately implemented, and have increased in time. Compensations have started to include persons formally not considered in the beginning, such as victims of torture and their relatives. The impact of the truth established in the Rettig Commission report played a role in the increase of economic reparations. Compensation seems to increase demands, instead of appeasing them.

With justice and truth as parallel tracks, “justice insofar as possible” -President Patricio Aylwin's concept- had a limited outcome. Justice had to overcome the amnesty law, the high prerogatives of military justice and the behavior of a judiciary power compliant with human rights violators. Truth was addressed through the investigation of the Rettig Commission. Its outcome, an official acknowledgement of the crimes committed by State agents, became in time an important input in the gradual, progressive increase of trials to the military.

2. Political context for transitional justice in Chile

In 1970, President Salvador Allende was elected President with a relative majority of about 1/3 of the vote. In an increasingly polarized political context, his government, supported by the leftist coalition Popular Unity, intended to carry out radical reforms towards socialism. The military, encouraged by the break of the centrist Christian Democracy with the government and by the support of the USA, took power through a military coup on September 11, 1973.

The Presidential palace and the private residence of the president were bombed, tanks occupied the streets of Santiago and the military took control of the country. The Coup was a joint action by the three branches of the military -the Army, the Navy and the Air Force- plus the *Carabineros* police. The Military Junta formed by the four Chiefs of these armed bodies abolished Congress, declared a state of siege and assumed the government through decrees. Their dictatorship, presented from the beginning as a temporary government to reconstitute order, lasted 17 years, always under the leadership of Army

Commander in Chief, General Augusto Pinochet. During the first years, the government attempted to physically eliminate political opponents, killing thousands and sending others to exile.

In 1978, the Military Junta approved by decree an Amnesty law (DL 2,191) to cover crimes committed between 1973 and 1978. The Amnesty law shielded from criminal responsibility all persons who were authors, accomplices, or had covered-up crimes committed from the day of the coup, September 11, 1973 to March 10, 1978, when the state of siege was lifted. By this law, courts had to declare themselves incompetent and transfer cases related to human rights to military courts whenever military personnel or military domiciles were involved.

During the 17-year military dictatorship, the judiciary complied with the regime's crimes, ignoring *habeas corpus* presented by relatives of persons detained or disappeared and refusing to investigate these cases. Religious organizations –the Pro-Peace Committee and later the *Vicaría de la Solidaridad*, depending on the Santiago Archbishop- became the place where relatives of victims could bring their demands and testimonies. Lawyers in these institutions received and classified all the information available. These files and these professionals would later become one of the major sources of information about human rights violations by the military government.

In 1980, a Constitution designed by the military was approved in a bogus plebiscite. According to a schedule established in this Constitution, a new plebiscite was held in 1988, to determine the permanence of the military in power with Pinochet as President for 8 more years, or a set of constitutional reforms that included immediate call for free elections. The options were “Yes”, for the continuation or “No”, in favor of elections. The option “No” won a substantial majority and competitive presidential and parliamentary elections were held in 1989. A broad center-left coalition, the *Concertación* of Parties for Democracy, won this election with candidate Patricio Aylwin, a Christian Democrat that 17 years earlier had supported the coup against Salvador Allende and the Popular Unity.

The plebiscite and the elections followed the schedule designed by the military. Chile's transition to democracy was a negotiated transition, where the military retained a high level of power as de facto and institutional prerogatives. Pinochet remained Commander in Chief of the Army and became later a Senator for life, until he was arrested in London in 1998 and voluntarily gave up his seat in Congress in July 2002. The political system retained substantial features of the limited democracy the Constitution provided for.

In March 1990, Patricio Aylwin took power from the hands of Pinochet, in a ceremony held in the new National Congress, built in the city of Valparaíso by the military. In April, President Aylwin created, by presidential decree, a Truth and Reconciliation Commission to establish the truth about human rights violations between September 11, 1973 and March 11, 1990.

3. Truth

The investigations about human rights violations during the military dictatorship followed two parallel tracks: the judicial way, through quarrels before tribunals and sometimes processes, and the “truth and reconciliation” way. These were complementary and non-interchangeable ways of unveiling the truth and making it official.

The existence of these two parallel tracks resulted from the conditions created by the negotiated transition to democracy. The 1990 Truth and Reconciliation Commission aimed at establishing a shared historical account of the past, explicitly leaving out of its mission any judiciary action. The aim was not, as critics of the process stated, to exchange truth for justice, although the question about unintended consequences of the truth without justice may be debated. The procedure aimed at advancing investigations that would otherwise not be done, as a consequence of the close ties between the judiciary and the former dictatorship.

The truth commission was a way of overcoming the absence of judicial investigation, in order to establish a historical official account of human rights violations. Justice was left to the tribunals, who predictably continued to close cases and apply amnesty without investigating. The information gathered by the Rettig Commission that implied individuals in criminal acts was sent to the judiciary in secret reports.

After the National Commission of Truth and Reconciliation (the Rettig Commission) of 1990, the National Corporation of Reparations and Reconciliation was established in 1992, together with economic compensations to relatives of the disappeared and executed by the dictatorship, and to persons exonerated from public offices for political reasons.

The National Corporation of Reparations and Reconciliation was aimed at putting in practice the recommendations about reparations of the Rettig Commission, to provide compensation to victims of human rights abuses and to further investigate the fate of the disappeared. While its efforts towards the recovery of the remains of disappeared were unsuccessful, this office had remarkable results in the area of compensation, one of the most peculiar aspects of Chilean transitional justice.

In 1999, then Minister of Defense Edmundo Pérez Yoma began a new effort to build a consensual truth: the *Mesa de Diálogo*, a roundtable that gathered human rights lawyers and military. Under President Ricardo Lagos’ administration (2000-2006), the roundtable produced an important result: the military, for the first time, acknowledged they had committed crimes. They said they had thrown political opponents to rivers and to the sea.

Commission of Truth and Reconciliation

The National Commission of Truth and Reconciliation was created by presidential decree in April 1990 with a mandate to investigate and document the truth in cases of human rights violations that resulted in death. Nine jurists, headed by Raúl Rettig, and a staff of 60 people were given nine months, from April 1990 to the end of that year, to register the

testimony of victims and witnesses of human rights violations, determine the credibility of such information, investigate and deliver a report.

The Commission was entrusted to investigate the execution, disappearance and torture resulting in death of persons arrested by agents of the state. Also, politically motivated kidnappings and attacks by private individuals that took place between September 1973 and March 1990 were investigated. It was not mandated to account for the thousands of cases of torture, nor for the Chileans who lost their jobs or were forced into exile. From these premises, it was understood to be a partial account of the repression that took place under Pinochet's dictatorship (Zalaquett, 1991).

The commission was explicitly deprived of any judicial faculty. It could not request the appearance of persons in court. Instead, it had to rely on voluntary declarations. It was also forbidden to assess criminal responsibilities, although in cases of founded suspicion of individual responsibilities, it had to inform the judiciary⁴. Unlike the South African Commission, where sessions were transmitted by radio and television, the Rettig Commission gathered the information in private meetings, closed to the public and the press.

In March 1991, the Commission delivered its report. It had investigated 3,400 cases, publishing the names of victims of human right violations and the general circumstances under which human rights violations took place. It mentioned names of regiments or police divisions involved in the crimes, but not the identity of individual perpetrators. The Report included an account of the "historical truth", the first official text containing the history of the country since 1973. President Patricio Aylwin informed the country the findings of the Commission and, visibly touched, he asked for forgiveness, in the name of the State, to the victims of the political violence.

The President of the Commission, Raúl Rettig, died on April 30, 2000 at 90 years old⁵. In December 1998, while arrested in London, Pinochet sent a public "Letter to the Chileans" where he said: "I have been the object of a sly and coward political and judiciary machination, with no moral value whatsoever. While in this continent -specifically in the countries that condemn me with spurious trials- Communism has assassinated many millions of human beings during this century, I am persecuted for having defeated it in Chile, saving the country from a virtual civil war. This meant three thousand deaths, among which one third are uniformed men and civilians that fell victims of extremist terrorism". (Pinochet, 1998. My translation) Raúl Rettig replied that the number of

⁴ "Naming culprits through an official commission appointed by the executive, which did not have subpoena powers and could not conduct trials, would have been analogous to publicly indicting individuals without due process" (Zalaquett 1992, p. 1435)

⁵ Raúl Rettig was a traditional politician from the Radical Party, a small party of the center-left *Concertación* governing coalition. He was Under Secretary of the Interior in 1938 and of Foreign Affairs in 1940, was elected senator in 1949, and held the presidency of his party several times. During the 50's, he fought in a duel with at the time senator Salvador Allende for a political dispute. Nobody was injured. During Allende's government, Rettig was appointed Ambassador to Brazil (until 1973). In 1985, he became president of the Lawyers College. In 1990, he was appointed by President Patricio Aylwin to lead the Truth and Reconciliation Commission.

victims members of the armed forces and security organisms during the dictatorship was 132 persons, as stated in the Report, and not one third of the dead, as Pinochet said. The military and their supporters had rejected the contents of the Truth Commission report from the beginning, and in 1998, the former dictator contested once again its findings.

Corporation of Reparation and Reconciliation

Following the Rettig Commission, Law 19,123 created in January 31, 1992 the National Corporation for Reparations and Reconciliation⁶. This Corporation continued investigations on the whereabouts of the disappeared and coordinated State funded reparations to relatives of victims killed by the military. Law 19,123 assigned reparation pensions for relatives of victims of human rights violations executed or disappeared by the dictatorship (Title II). It assigned medical and educational benefits to victims' relatives (Titles III and IV), and exempted children of victims from the mandatory military service (Title V).

The Corporation, a "decentralized public service subject to the supervision of the President of the Republic through the Ministry of the Interior" (Law 19,123), was supposed to be in place two years: 1992-1994. Its existence was extended until 1996 and after closing its offices, Decree 1,005 created the "Program of Continuity of Law 19,123 former National Corporation of Reparations and Reconciliation", a program in place between 1996 and 2000. From then on, a new administrative section of the Ministry of the Interior inherited the Corporation's tasks and archives. Without any particular legal structure, this new office received the generic name of Human Rights Office of the Ministry of the Interior.⁷

Involvement in legal investigations was a duty of the Corporation. The law said that "It is declared that the location of the disappeared detainees, as well as that of the bodies of the executed persons and the circumstances of said disappearance or death, constitute an inalienable right of the victim's families and of the Chilean society". (Article 6, Law 19,123)

For that reason, the Corporation and its follow up offices held an auxiliary role in human rights investigations carried out by the judiciary. Between 1996 and 2000, 18 lawyers gathered information from witnesses, answered requests from judges and performed extra-judicial investigations that ended in proofs and reports presented to the courts.

The body of documents gathered during the dictatorship by the *Vicaría de la Solidaridad* passed to the custody of the Corporation of Reparation and later to their follow up offices. These documents have also been consulted for subsequent extra-judicial research.

After the *Mesa de Diálogo* talks and its final report, in 2001 President Ricardo Lagos decided to give a new impetus to investigations and restructured the Program of

⁶ The official English translation of Law 19,123 was published in Volume III of Neil Kritz, 1995

⁷ I thank social worker Victoria Baeza, from the Office of Human Rights of the Ministry of the Interior, for valuable, first-hand information on the operation of this office.

Continuation of Law 19,123. He appointed a consultant group and a human rights team formed by professionals from different areas in the public administration. These persons were temporarily relocated to an emergency committee: the new Human Rights Office. More than 30 people work in the four sections of this program: administration, social team, juridical area, and studies and projects area.

The juridical area, instead of playing an auxiliary role to judicial cases, is now part in the processes followed against perpetrators. Thus, they can request procedures and present witnesses instead of waiting for instructions from the courts.

The Human Rights Office, unlike its predecessor, the Program of Continuation, recognizes organizations of relatives of human rights violations as institutions, instead of dealing only with direct relatives on an individual basis. This has had a social impact in relatives, who can now channel collectively their demands.

According to Article 6 of Law 19,123 on the right to know the circumstances of death and locate the body, new resources have been assigned for excavations, in order to investigate accusations of illegal exhumations of bodies. The appointment of special judges for these cases also channeled additional public resources to the judiciary.

The National Budget for 2002 assigned the Human Rights Office of the Ministry of the Interior US\$ 772,000 (\$540 million pesos) to finance its personnel, judiciary procedures and support to excavations in search for remains of the disappeared and executed.

The Human Rights Office addresses situations not included in Law 19,123 on reparations through administrative requests, therefore increasing the benefits to relatives. Presentations include requests to the public health, education and pensions systems.

“Mesa de diálogo” roundtable talks

In 1999, the “Mesa de Diálogo” roundtable talks brought the first official acknowledgement by the military of their crimes. Although the table reached an agreement that the military would provide further information on the disappeared, the talks were rejected by groups of relatives of victims and the communist party. They considered it an attempt to close cases that were being investigated by the courts, in order to certify the death and close the cases.

The information delivered after the talks concerned 200 cases, but the result in the search for bodies was disappointing. The revelations by military of throwing certain persons into the sea as a result of the dialogue roundtable was considered an excuse to announce the official death of certain conspicuous disappeared, in order to stop judicial investigations. From this point of view, the talks allowed to close ongoing judicial cases against perpetrators, becoming more a political protection for human rights violators than an advance towards obtaining more information.

Months after the beginning of the talks, Pinochet lost the privilege as a Senator for life that protected him from standing trial. The reason was the grounded suspicion about his participation in the case known as “Death Caravan” (*Caravana de la Muerte*), a military group that traveled Chile killing political prisoners. The military personnel participating in the talks said this would discourage military from giving information. Many active and retired officers were involved in human rights cases.

The Table's last meeting occurred in June 13, 2000. In January 2001, the Churches, the Masonry and the Armed Forces gave President Lagos all the information gathered about conditions of death and whereabouts of remains of disappeared. The report was not given to the participants of the table nor was it made public. According to the media, it contained information about 200 individuals most of them disappeared in 1973 and 1974. Of those, the remains of 49 were supposed to be searched with this new information. The other 151 had, according to the report, been thrown to rivers, lakes and the sea. In more than 50 cases, inconsistencies with the date of detention and the probable date of death cast suspicion on the information provided. (Lira 2001).

The searches that took place on grounds of the new information did not bring the results expected. In Cuesta Barriga, near Santiago, some remains were found, but the impression was that bodies buried there had been previously removed. In the process of identifying the remains found in Fuerte Arteaga, the remains of one of the persons reported as thrown to the sea -communist party activist Juan Luis Rivera Matus- were identified. When informed of the result of the roundtable talks, relatives of Rivera Matus, most of them living abroad, had participated in a funerary ceremony in front of the sea. Three months later, they received his remains from Fuerte Arteaga and had to face the pain again. These facts reduced the credibility of the report. The contribution of these talks was that the military acknowledged for the first time detaining, killing and covering up crimes in at least 200 cases.

Only 27 of the 356 cases attributed to the intelligence service DINA were included in the report given to President Lagos. These cases involved leaders of the Communist and Socialist party who belonged to the direction of the parties, killed in 1975 and 1976. Relatives of many of them are nowadays public figures. Recognizing they were thrown to the sea was a step forward in establishing the truth, but did not provide useful information about their real destiny.

After the roundtable, quarrels against the Commanders in Chief of the Armed Forces were presented, as charges for obstructing justice. Information about tortures in the “Caravan of Death” case opened a new judicial set of action: quarrels for torture against military officers. Requested by the Government, the Supreme Court assigned special judges for these cases.

The government also reorganized the Corporation of Reparations and Reconciliation, closed in 1996 when it became a program of the Interior Ministry to give legal and social support to relatives of disappeared, in order to strengthen the task of giving reparations.

The Forensic Service (*Servicio Médico Legal*) faced troubles to identify remains recovered, and its coordination and competence have been strongly criticized. The Armed Forces recognized that the report contained inexact information and expressed a will to correct it in the future. In the present, remains of bodies recovered from Fuerte Arteaga (a military precinct, hard to scrutinize), General Cemetery, Cuesta Barriga and other locations are still in the process of identification.

The search for the disappeared and executed

The National Commission of Truth and Reconciliation and the Reparation and Reconciliation Corporation reported 3,196 victims of political violence. Of these, 1,185 were disappeared and 1,720 dead by the dictatorship. The opposition to the military was considered responsible for the deaths of 152 people: 38 Army members, 4 Navy members, 1 Air Force member, 67 Policemen, 42 civilians. Other 139 deaths were reported as result of political violence, without identified authors. (www.fasic.org)

According to an Amnesty International definition, “detained disappeared” (*detenidos desaparecidos*) are persons deprived of their liberty by State agents, whose whereabouts were hidden and whose deprivation of liberty was denied. The executed (*ejecutados*) are persons that were killed by State agents and illegally buried, certifying their death but not rendering the body.

Between 1978 and 1999, 161 disappeared and 81 executed were identified. The number continues to increase, with the forensic service working in identifying human remains suspected to belong to disappeared and executed. (FASIC).

Hundreds of Chilean anthropologists and forensic experts have worked in excavations in search for remains of disappeared and identifying bodies. In contrast with the findings of a Nuremberg-model revelation of the truth, this has been an anticlimactic, extenuating process for victims, public opinion, authorities and even perpetrators. In 1979, little after the Amnesty law was decreed, the remains of 20 disappeared were exhumed from Laja and San Rosende; 15 disappeared were found in the quicklime ovens of Lonquen, all of them detained in October 1973; 18 more bodies of disappeared were found in Mulchen.⁸

In 1990, the bodies of seven disappeared, 12 executed (eight of them shot, the others by the "law of escape" that justified shooting prisoner who tried to escape) and two Non Identified were found in Pisagua. One executed in Calama. Thirteen executed in Copiapó. One disappeared in Cuesta Barriga. Three disappeared in Colina (in land belonging to the Army). Four disappeared and five executed in Paine (in addition, in September 1990, the Forensic Institute began the procedures for identifying the remains of 14 persons exhumed in 1974 and re-buried in Paine in January 1991: 13 corresponded to disappeared and one to an executed). Three executed in Talca. One executed in Coronel. Four executed (with a War Council approval, in 1973) in Concepción. One disappeared in Temuco. One executed in Sicahue.

⁸ The Lonquen and Mulchen cases are described in the Yearly Report of the Inter American Commission of Human Rights (OAS) for 1979-1980, Chapter 5.

In 1991, 125 bodies were exhumed from *Patio 29* of the General Cemetery, in Santiago, and identified between 1993 and 2000⁹. 74 were disappeared (one minor). 21 were identified as executed by the "Death Caravan".

In 1998, two executed (one of them Bolivian) and one disappeared were identified, and remains of some of the 26 persons killed by the "Death Caravan" in September 1973 were found in Calama. Parts of those bodies are still in the process of identification. Four disappeared were found in Tocopilla. One Argentine citizen disappeared in Vicuña. Fifteen executed in La Serena.

In 1999, following orders given by Judge Juan Guzmán, skeletons were removed from the cemetery of Constitución and one executed was identified. Two years later, in October 2001, the Forensic Institute identified three other persons executed and buried in the place. Their families organized their funerals the next day in Cauquenes. Two disappeared were found in Los Angeles, one in 1999, the other in 2000.

The practice of disappearing people had an unintended effect. Not reporting the detention and assassination of persons was probably intended as a way to hide the crime. Executions provided official information about the fact of the death. But disappearances ended up opening a space for surpassing the Amnesty law, when the interpretation of disappearance became that of a crime of permanent occurrence. Therefore, the disappeared became the nightmare of the military, since those cases were not closed and investigations continue today.

Finding of remains and identification of bodies in different parts of the country continue, the numbers and the stories told are continually changing -as shown by the findings of 2001, after the *Mesa de Diálogo* roundtable talks.

4. Justice

Three major obstacles have played against the reach of justice in Chile:

1. The loyalty of the judiciary to the military, who put them in office.
2. The excessive jurisdiction of military courts, even over cases that involve civilian victims and perpetrators.
3. The Amnesty Law Decree of 1978.

The Judiciary Power

During the dictatorship, the judiciary was an accomplice of the regime. Judges denied habeas corpus presented by relatives of prisoners and disappeared. The evolution of the

⁹ Among the disappeared of *Patio 29* was Fernando Olivares, the subject of the documentary film "Fernando ha vuelto" (*Fernando is back*), by Silvio Caiozzi. Another documentary film about the remains found in the General Cemetery is "Patio 29: Historias de Silencio" (*Yard 29: Histories of silence*) by Esteban Larraín. The discovery of bodies in *Patio 29* had a great impact in the population. Interviewed about the findings, then Commander in Chief of the Army, General A. Pinochet, said the finding of several bodies in one coffin was a great economy of space.

norms and institutions of the judiciary and the changes in the behavior of judges are a central clue to the process of transitional justice in Chile.

In a Nuremberg Trial model of transitional justice, a new judiciary is allowed to create norms to resolve cases not accounted for in the legislation. In Chile there was continuity in the courts and in the public service, with no purge. Exonerated persons were more often compensated through social security than re-incorporated to their former jobs. Most of the public administration remained intact after 1990.

President Patricio Aylwin addressed human rights abuses from the past with judges that collaborated with the regime and allowed those abuses to take place. The “Cumplido Laws”, named after Aylwin’s Minister of Justice Francisco Cumplido, addressed mainly the problem of what to do with political prisoners from the dictatorship. The Cumplido Laws transferred to civil court cases where the accused and the affected part were civilians, but had been sentenced by military courts. They also changed sentences of political prisoners to lower them or to send prisoners out of the country. Despite the evidence, until the end of their rule the military never acknowledged the existence of political prisoners.

The attempt to pass bills interpreting the Amnesty law to encourage investigation prior to applying amnesty failed because of the lack of a democratic majority in the Senate, where nine appointed Senators were former collaborators to the dictatorship.

After years of failed attempts to make judges face human rights violators, a broad reform of the criminal system and of the judiciary allowed for the promotion of new judges to the Supreme Court, and to other lower courts. Tribunals were more willing to sue military and to investigate cases. As the political system began to open and transition to democracy was a possibility, judges had an incentive to acquire an attitude more prone to the protection of human rights.

“From 1980 onward, important changes in Chilean politics and society had slowly left their mark on the judiciary. Although the reasons behind the shift in judicial attitude have not been investigated in depth, the most important appears to have been the enjoyment of more freedom in the country once the period of high political repression against the opposition had come to an end” (Correa Sutil 1997, p. 128-129). The main changes in that stage were the economic crisis of 1982, the massive public protests against the dictatorship that began in 1983, and the signing of the National Agreement between the government and the opposition (to begin negotiations) in 1985.

The criminal procedure

The Chilean Criminal Code relies in judges to investigate, formulate accusations and dictate sentence. The criminal action begins with a quarrel (*querrela*) or a denunciation (*denuncia*). In the case of quarrels, the accusing part, usually a victim or a relative, becomes part of the judicial procedure, through the representation of a lawyer. These lawyers, at the request of the quarrelling part, make the case move forward, requesting

inquiries and steps of the procedure from the judge. When the case begins with a denunciation, it usually prescribes before anything is investigated. If nobody moves it, the case “sleeps” in court until it prescribes.

The entire procedure is written, therefore slow and impersonal. One of its main problems is that magistrates play the role of judge and part: they investigate, elaborate hypothesis about the facts and then, they have to act “impartially” to dictate sentence.

The reform of the criminal procedure, the most ambitious legal reform in the history of the country, changes these features. The new system includes oral trials instead of written ones, and creates a new institution: the Public Ministry (*Ministerio Público*), to investigate and present accusations. In this model, the judge is left only with the task to judge the case.

The new criminal procedure will be fully effective in 2004. Meanwhile, the country is working with both, the old and the new procedure, in parallel¹⁰. The reform began gradually by geographical regions of the country. It was developed and approved by Congress under President Eduardo Frei (1994-2000) and put in practice under President Ricardo Lagos (2000-2006).

Special judges

The appointment of nine special human rights judges came following the roundtable's recommendation for a review of progress made on cases of more than 1,200 individuals disappeared during the dictatorship. In accordance with a Supreme Court decree, criminal judges dealing with three or more cases of human rights abuses were relieved of their daily duties from their respective tribunals so that they could focus exclusively on human rights cases relating to the disappeared.

Among these judges was Mario Carroza Espinoza, from the Third Criminal Court of Santiago. According to judge Carroza, the task of these special judges had gone forward in bringing perpetrators to justice, but had been less successful in finding remains of the disappeared. Only two of these judges, Héctor Carreño and Amanda Valdovinos, have actually found bones. Their task is to prove the facts, find the perpetrators and find the remains of the disappeared. According to judge Carreño, this means justice for relatives of victims as well as for military institutions, because “the military institutions have nothing to do with excesses committed by determined individuals”. Event though he acknowledges the possibility of sentencing perpetrators, in his opinion, at that point – after finding the remains and establishing responsibilities- amnesty and the statute of limitations should be discussed.

These eight judges were successful in processing those responsible of disappearing political opponents, but had poor results in finding the remains of the victims. The initial deadline for these eight judges' investigation was postponed once by the Supreme Court,

¹⁰ By mid-2002, the system was working with the old system in around one half of the country, and the new one in the other half.

and it may be postponed again. In March 2002, around 48 former members of the Army, Air Force, *Carabineros* police and civil investigations police (*Investigaciones*) had been accused of “qualified kidnapping” (*secuestro calificado*).

Members of the Armed Forces, *Carabineros* Police, Investigations Police and Security Services were called to testify and some were condemned for crimes committed before April 1978 (a period covered by the amnesty law) by judge Juan Guzmán. Judge Guzmán was appointed in January 1998 to investigate the participation of Pinochet and other officers in the "Death Caravan", a group that killed political opponents of the dictatorship between October and November 1973.

Guzmán called to declare members of the Armed Forces and subpoenaed ten high-ranking officers, such as General Sergio Arellano Stark (retired Army General), Marcelo Moren Brito (retired Army Colonel), and Armando Fernández Larios (retired Army Captain).¹¹

Even though the Sixth Appeals Court temporarily closed the file against General Pinochet for his responsibility in the “Death Caravan”, because of mental health, in January 2002 the Supreme Court accepted to review that decision after a request by communist lawyer Alfonso Insunza. The request was to declare unconstitutional the closing of the case, given the rules of the new criminal code. In July 2002, the Supreme Court ended the case, declaring that General Pinochet was unfit to stand trial due to his mental health. The case went on for retired general Sergio Arellano Stark, Colonel Sergio Arredondo and Brigadier Pedro Espinoza.

In August 2002, 12 former military officers were condemned, in a first instance, to prison for the killing of Union leader Tucapel Jiménez, a crime perpetrated in February 25 1982. In a related case, Army Intelligence officer Osvaldo Pinchetti had been sentenced to 10 years of prison for the murder of carpenter Juan Alegría Mundaca, a crime perpetrated with the purpose of hiding the circumstances of the killing of Tucapel.

Judge Jorge Valenzuela Patiño was in charge of this case during 14 years, with no result. "I did all I could. It was not much, because the conditions were very different, very untoward investigation¹²", he said after the sentence was dictated. After years of complaints by the quarrelling part, he was removed from the Tucapel and the Alegría case in 1999, and replaced by Judge Sergio Muñoz. After three years of investigation, the new judge sentenced one former officer to life in prison and 12 other former members of the Army to penalties between 10 and 3 years of prison.

The assassinations of Tucapel and Alegría were perpetrated after the dictation of the amnesty law decree and were therefore not covered by it. In the Tucapel case, prison for life was discarded due to a statute of limitation, except in the case of General-Major Carlos Herrera Jiménez, sentenced to life in prison. Intellectual and material perpetrators,

¹¹ The tendency by the Armed Forces to retire officers highly implied in human rights violations has increased the number of current high ranking military that did not participate in these facts.

¹² El Mercurio, August 7th 2002

including former generals, brigadiers, colonels and captains were sentenced to 10, 8, 6, and 3 years of prison.

These sentences were still not the final word. They were considered low by the prosecution (and by Tucapel's son). The Commander in Chief of the Army, General Emilio Cheyre, said responsibilities for the killing of Tucapel lay on individual perpetrators and not in the Army as an institution.

In July 2002, Cheyre became the first commander in chief in office to testify before a judge for accusations of human rights violations. He was accused of involvement in the killing of two minors in the north of the country in 1973, a crime not covered by the Amnesty law because the victims were kids.

In June 2002, the Supreme Court rejected a decision by the Santiago Appeals Court to grant immunity under the Amnesty law to former colonel of the intelligence service DINA, Gerardo Urrich González, accused of kidnapping the disappeared leftist Dagoberto San Martín Vergara. The fourth bench of the Supreme Court made a unanimous judgment that the law was inapplicable in human rights cases while the investigating judge had not established how the crime took place, what exactly happened and if the authors had not been clearly identified.

The appeals court had originally accepted the amnesty because the crime took place under the state of emergency covered by the law. Various human rights violations, including the Urrich case, had been closed on the basis of a conservative interpretation of the Amnesty Law. In these earlier instances, a defendant had only to establish that the crime occurred within the time frame set out by the Amnesty law, and the proceedings would be immediately closed, without any effort to establish the circumstances of the crime, or those responsible for it.

But one of the judges who made the latest ruling, Rosa María Maggi, underlined her determination that the legal process against Urrich go ahead, saying that the principle of determining who committed crimes in great detail was "a fundamental of all criminal justice." Judge Maggi added that neither the amnesty nor the subsequent ruling applied when the investigation was not exhausted.

The criminal bench of the Supreme Court maintained its line on the Amnesty law despite criticism from the Army. Similarly, the Supreme Court had ruled on the "Caravan of Death" case against Pinochet, stripping the lifetime senator of his right to immunity for controlling a death squad which traveled the country after the 1973 coup, executing detained leftists. Two weeks prior to this judgment, 13 members of a military death squad, "*Commando Conjunto*", were freed because of an application based on the Amnesty law. That precedent was used by Urrich's lawyers to gain his freedom. The "*Commando Conjunto*" ruling, however, was a sharp departure from the new, more liberal interpretation of the Amnesty law. It was the first time a senior court had ruled in support of amnesty for human rights cases investigated by special judges appointed in the

wake of the *Mesa de Diálogo* human rights roundtable, which met in 2000 and 2001 (Chip News, 28 June 2002).

Almost 30 years after the coup, former and current military are now interrogated and put in preventive prison by courts.

Legal actions for human rights violations are presented under the rubric of illicit association in cases involving secret services like DINA, CNI, Joint Command and other repressive organizations of the dictatorship. Abduction is a figure presented in cases of disappeared, since it is a permanent and ongoing crime, not covered by the Amnesty law. First-degree murder is the accusation in cases of homicide or when the body of a disappeared has been identified. In those cases, the possibility to apply Amnesty depends on the date of death. Finally, accusations of Genocide are in courts for the intent of the dictatorship to destroy members of political parties of the left as a national group.

Pinochet in London

Following an extradition request from Spanish Judge Baltasar Garzón, for life Senator Augusto Pinochet was arrested in October 1998 at a clinic in London where he had back surgery. The Spanish courts asked for Pinochet's extradition to try him for the torture and murder of Spanish citizens who disappeared during Chile's 17-year dictatorship. The Chilean government protested the arrest, saying it was illegal because of the former general's diplomatic immunity.

Pinochet was granted the status of "Senator for life" when he turned over the post of Commander in Chief of the Army in 1998. In November 1998, the House of Lords ruled that Pinochet did not enjoy diplomatic immunity and could be extradited to Spain. The British Foreign Minister, Jack Straw, backed up the ruling, giving the go-ahead for extradition. Chile condemned the high court's decision. Then-President Eduardo Frei cancelled official visits to London, withdrew the Chilean ambassador to the United Kingdom and asked the Chilean airline Lan Chile to suspend its weekly flight to the Falkland/Malvinas Islands.

Pinochet sympathizers gathered each day outside the British embassy in Santiago to protest the arrest. The right-wing mayor of the eastern Santiago borough of Providencia, Cristián Labbe, ordered the municipality to halt garbage pick-up at the embassy. In a historical move, Pinochet's legal team appealed the House of Lord's decision to another bench of the same court, citing biases on the part of one judge. Pinochet's attorneys said Judge Hoffman had ties to Amnesty International and therefore did not issue an objective ruling.

In March of 1999, the House of Lords ruled to uphold the previous decision, paving the way for Pinochet's extradition. The court, however, conditioned the decision, asking Jack Straw to personally review the case. After nearly one year of judicial hearings and medical exams, Straw decided in March 2000 that Pinochet was unfit to stand trial for health reasons. He released the general to return to Chile. After 16 months in custody,

Pinochet was released by Great Britain because of declining health. Arrested in Santiago in 2000, he was ruled mentally incompetent to stand trial. (Stgo Times, april 2002)

Hundreds of cases against him were filed in Chile. Amnesty was not applied in any of these cases. Judge Juan Guzmán took charge of the accusations against Pinochet. Although the detention in London was widely considered to have brought about the end of Pinochet's impunity and an avalanche of legal suits, J.S. Valenzuela (Lecture 2002) considers this a distorted version. According to Valenzuela, when Pinochet traveled to London in 1998, Judge Guzmán was gathering documents regarding his participation in the Caravan of Death to provide evidence conclusive enough to withdraw Pinochet's immunity as lifetime senator. Valenzuela argues that Judge Guzmán did not have enough time, between the end of Pinochet's period as Commander in Chief and his trip to London, to prosecute him and that, in fact, the detention in London reduced the possibility of punishment by declaring him mentally unfit to stand trial.

This thesis does not seem plausible, despite Judge Guzmán's intentions, as shows the decision by the Supreme Court in July 2002 not to judge him for the Death Caravan charges. Pinochet was never tried in Chile while he was Commander in Chief, and an attempt to deprive him of his immunity as lifetime Senator did not pass in Congress. The avalanche of lawsuits against him only began after his detention in London. Before that, he enjoyed great power, provided by his political and armed supporters, and the complicity of a government that considered him untouchable, as are many of the enclaves included in the compromise for a peaceful transition to democracy.

Amnesty Law

In April 1978, the military government approved by decree the Amnesty Law (DL 2,191). This decree shields from criminal responsibility authors and accomplices of crimes committed between 1973 and 1978, when the state of siege was lifted (Memoria y Justicia).¹³ The way DL 2,191 operates is by withdrawing responsibility for crimes committed between 1973 and 1978. The preamble to this decree explains the "ethical imperative" that motivated the law as intended "...to strengthen the ties that bind Chile as a nation, leaving behind hatred that has no meaning today, and fostering all measures that consolidate reunification of all Chileans." (Memoria y Justicia)

The Amnesty law, still valid in Chile, makes no distinction between common crimes and politically motivated crimes that violate human rights. Persons indicted for crimes such as armed robbery, abduction of minors, and fraud, who were indicted or sentenced at the time the law came into effect, were among those shielded from prosecution.

Individuals implicated in the homicide and passport falsification case that constituted a preliminary stage to the assassination of former foreign minister and ambassador Orlando

¹³ According to human rights advocates, DL2191 is not a true amnesty law: "a mechanism by which a State renounces its penal authority in light of compelling political and social factors shared by the majority of the population" in a general and objective way so as not to favor a specific group of people. They consider it only as a self-pardon decreed by the military to protect themselves (Memoria y Justicia).

Letelier, and crimes related to other international terrorist actions, were excluded from amnesty. Thus, the terrorist attacks against General Carlos Prats in Argentina and against Bernardo Leighton in Italy were not covered by the amnesty law. The coordination by intelligence apparatuses from the military dictatorships in Argentina, Uruguay, Brasil and Chile to share information on political opponents –the *Operación Cóndor*- was also excluded, and has been investigated under the category of “international conspiracy for terrorism”.

For the military and their political supporters, transitional justice began in 1978, with the Amnesty law. The dictatorship itself was presented as an emergency, transitory regime to fight communism and rebuild a political democratic system allegedly destroyed by Salvador Allende's socialist government.

The asymmetry of forces discards the version of a civil war presented by the military. When DL 2,191 came into effect, an estimated 69 political prisoners, mainly from Santiago's Penitentiary jail, were released. Most of them had their sentences already commuted from prison to exile. In contrast, numerous military officers and their civilian collaborators have avoided prosecution when courts invoked DL 2,191. (Memoria y Justicia).

A new interpretation of the Amnesty law began with a 1986 complaint against the "Caravan of Death". According to lawyers in this case, abduction was excluded from the amnesty law, since it should be considered an ongoing crime until the person is released or a body found. Statutes of limitation did not, therefore, apply to kidnapping. Investigations could not conclude until the abducted person was located and the abductors were identified. This case ended up in a military court and was dismissed, but the principle would gain acceptance later.

On September 1998, the Supreme Court ordered the reopening of the case involving the 1974 disappearance of Enrique Poblete Córdova, a member of the Movement of the Revolutionary Left (MIR). The attorney for the Poblete family argued that disappearance corresponded to the crime of abduction until the victim was located either alive or dead, and therefore amnesty did not apply. Prior to that ruling, the Supreme Court consistently accepted the arguments of the military justice system that human rights cases be closed as soon as the crimes are found to have been committed between September 1973 and March 1978. (Memoria y Justicia).

During the dictatorship, courts applied amnesty without investigating when military personnel were involved. In the early post-dictatorship years, the situation remained the same. By the late 1990s, abduction as a crime of continued execution gained acceptance in the courts, leading to several investigations on the fate of the disappeared. Remains had to be found, identified, and the case had to become one for first-degree murder. Only then, Amnesty could be applied. Some cases were reopened on the grounds of this new interpretation of Amnesty. Despite the failure in the early 1990s to approve a law interpreting amnesty in this sense, the thesis that prevails today in Chilean courts on cases

of disappeared is that until the whereabouts or destiny of the victim is known, neither Amnesty nor statutes of limitation apply.

The disappeared, persons whose whereabouts and circumstances of death were hidden to avoid judiciary consequences became, paradoxically, the way to circumvent the Amnesty law. The forward-looking provision of disappearing bodies for fear of future justice became a backward-looking tool for investigating cases of human rights violations.

5. Reparations

According to the U.N. Office of the High Commissioner for Human Rights, it is a duty of the State to provide reparations to victims of human rights violations, in the form of restitution, compensation, rehabilitation and measures to prevent a similar situation from occurring again (Van Boven 1997).

In that perspective, “restitution shall be provided to re-establish the situation that existed prior to the violations of human rights or international humanitarian law. Restitution requires, inter alia, restoration of liberty, family life, citizenship, return to one's place of residence, and restoration of employment or property”.

In the case of employment, some of the people who lost their jobs for political reasons in Chile during the dictatorship were reincorporated to them. In most cases, though, the loss of jobs was compensated through pensions.

Restitution of property confiscated by the military to political parties, persons and institutions was addressed in a bill approved by Congress in March 1997. Properties such as buildings, houses, apartments and media offices were restituted. In other cases, monetary compensations were granted. Many of the confiscations performed by the military were widely documented, because they kept an appearance of legality through law decrees¹⁴. In cases in which property was taken away from individuals instead of institutions, the military left no register. In these cases restitution proved more difficult to achieve. The law established a limit in time for receiving requests of restitution by the victims of confiscation. (*Vicaría de la Solidaridad*, 1997)

Restoration of property through the law of confiscated property did not impede presentations to the courts against the Chilean State. An emblematic case is the demand for millions of dollars presented in an international tribunal by Spanish citizens for the expropriation of the leftist newspaper Clarín.

In the area of restoration of liberty, political prisoners were freed, but many were forced to or voluntarily left the country.

People have been restored their citizenship, lost by cause of prison or exile. The proceeding includes an application by the interested part -who has to explain and

¹⁴ Confiscations were performed under law decrees no. 12, 77, and 133 of 1973, no. 1697 of 1977 and no. 2346 of 1978

document the circumstances for the loss of citizenship- and approval of the restoration by the Senate. Despite the right wing majority in the Senate, due to the appointed senators, restitutions of citizenship have been granted in most cases.

At the request of Chileans living abroad, President Ricardo Lagos' government has proposed a bill to allow for the double citizenship, something not contemplated in the legislation. Some persons who were exiled or their children, and persons who left the country voluntarily after the coup, adopted after some years the local citizenship for working or other practical considerations. They request now to be allowed to hold both citizenships, something that has been rejected by the right in Congress. The right fears allowing these persons to vote in national elections would benefit the left.

The program for return, to help exiled families to come back to the country, was also a restitution program. The National Office for Return ("*Oficina Nacional del Retorno*") had a limited life, but was among the most resourceful among reparation programs.

The U.N. document states that "compensation shall be provided for any economically assessable damage resulting from violations of human rights or international humanitarian law, such as: (a) Physical or mental harm, including pain, suffering and emotional distress; (b) Lost opportunities including education; (c) Material damages and loss of earnings, including loss of earning potential; (d) Harm to reputation or dignity; (e) Costs required for legal or expert assistance, medicines and medical services".

The bulk of public compensation in Chile has been granted through social security. The pensions and other benefits included in Law 19,123 and the program of reparations for political exonerated from public administration are the main compensatory programs.

Law 19,123 granted monthly reparation pensions to relatives of detained disappeared and executed. (Law 19,123 Title II) in the following proportion:

40% for the surviving spouse

30% for the mother of the principal or for the father where she has predeceased

15% for the mother (or father) of the children of the principal born out of marriage

15% for each child of the principal under the age of 25 and for disabled children of any age.

During the first year of receiving the pension, relatives had the right to a "compensatory bonification", equivalent to one year of pensions for each victim: US\$ 3,534 (\$ 2,473,455 pesos). In money of 2002, in those cases when only one relative had the right to the whole pension, this amounted to US\$ 284 (\$198,560 pesos). In the case of more than one relative, the pension could increase to a maximum of US\$ 397 (\$277,982 pesos).

In 2001, the Human Rights Office of the Ministry of the Interior assigned 3,217 pensions to relatives of the disappeared and executed persons: 258 to domestic partners, 1,292 to spouses, 410 to children and 1,257 to parents. The 410 pensions assigned to children of victims will expire in the next few years. Between 1992 and 2001, 5,519 pensions were assigned. Of these, 3,218 remain active and 2,301 have expired because beneficiaries

died or, in the case of children, grew older than 25. Around 3,000 persons (mainly spouses, most of them women) are expected to continue receiving pensions for around 30 more years, until 2030.

According to Law 19,123 the National Corporation for Reparation and Reconciliation would last 24 months, extendable by the President for another 12 months (Article 16). Some of the benefits the Corporation administers, though, are for-life pensions. The creation of an office to undertake the tasks of the Corporation was motivated by this fact as well as by the need to keep the records and documents originally entrusted to the Rettig Commission. More important, the task to search for the remains of the executed and disappeared and provide legal help for their cases in courts, as stated in Article 6 of Law 19,123, had to be addressed.

Law 19,123 also provides for medical benefits (Title III). In this case, the scope of beneficiaries is broader than in the case of pensions. It includes the father of the victim, where the mother is the pension beneficiary, as well as brothers and sisters. The reparations office -now the Human Rights Office of the Ministry of the Interior- gives these beneficiaries a card that gives access to free service in the public health system.

In addition to free access to regular services, the Health Ministry has a special program of integral health care for victims of human rights violations ("*Programa de Atención Integral de Salud, PRAIS*"). This program covers physical and psychological care for victims and their families. The scope of action of this program has broadened in time, increasingly including victims of torture and children of victims. An estimated 400,000 former political prisoners, most of them victims of torture, have the right to access these medical benefits.

Another compensatory benefit included in Law 19,123 was the exemption of the children of victims from the mandatory military service (Title V). In addition to its compensatory nature, this decision included an ethic element, as well as a preventive character. Acknowledged opponents to the dictatorship might be threatened or hurt during their military service.

The military service is mandatory for all male Chileans that do not go to College after completing High School. In the beginnings of the decade of 1990, children of victims benefited from this provision. In the decade of 2000, children are too old to take advantage of this law. The Human Rights Office has managed to increase by administrative ways the scope of beneficiaries, requesting on a case-by-case basis, exemption for grandchildren and nephews of victims.

Special pensions were assigned to peasants who had their land -received as part of the Agrarian Reform- confiscated by the military government.

Academic degrees conferred in foreign countries were validated without the regular requirements of further study or examination by national institutions. Special scholarship -funded by the Education and Interior Ministries- were granted to victims and their

children. These grants pay school and university fees of persons until 35 years old (they do not cover graduate study). This age limit was very important, given that most human rights violations occurred in the decade of 1970, and therefore children of victims were grown up in 1990. The beneficiary must begin the program of study at age 35 or less. The scholarship will pay the tuition until completion of the program, regardless of the age at the time of completion. Around 870 children of disappeared and executed used the scholarship every year since 1992. In 2001, 691 students were receiving this compensation. The budget for this scholarship is about US\$ 1,5 million every year (\$1,000 million pesos/year)

The law of political exonerated -defined as a “reparation” law¹⁵- is a compensatory program for victims of human rights violations. It provides pension benefits to persons exonerated for political reasons or for “acts of the authority” between September 11, 1973 and March 10, 1990. To receive the pension, exonerated had to apply and demonstrate the circumstances of their expulsion from the job. The original deadline to apply was August 11, 1994¹⁶. A second law¹⁷ opened a new term to apply, between September 1st, 1998 and September 1st, 1999.

The Ministry of the Interior installed a special office to receive and study the applications, and the Institute of Pensions Normalization (INP) had to calculate the amount of benefits that corresponded to each case and pay the checks.

The law assigned an amount of money in proportion to the years the exonerated person had been contributing to the pension system. (“*Abono de tiempo por gracia*”). These benefits were much lower in the original law than in the second one. Law 19,234 provided for only 2 months per every year the person had contributed to the system, with a maximum of 36 months. The subsequent Law 19,582 increased the maximum to 54 months. With this law, exonerated in the first four months after the coup (September – December 1973) were granted the updated equivalent of 6 months of their salary for every year they spent in the pensions system. The number of months paid per year in the system decreased to 4 for exonerated between 1974 and 1976 and to 3 for exonerated between 1977 and March 1990.

In addition, four kinds of for-life pensions by grace of the President of the Republic were granted to exonerated (“*pensiones no contributivas*”), according to four criteria: Seniority,¹⁸ Age, Handicap and Survival. Each pension adopted the form of a Supreme Decree by the Ministry of the Interior. Thanks to the second law 19,582, widows that are themselves political exonerated and hold a survival pension by the regular pension system could also apply to this special grace pension, with their own social security history. According to this law, beginning in September 1998 widows could choose

¹⁵ Institute of Pensions Normalization, <http://www.inp.cl>

¹⁶ Law 19,234

¹⁷ Law 19,582

¹⁸ 15 or 20 years of work. Blanks in contribution to the system, when the person was unemployed, were filled to help achieve the seniority required to obtain the pension.

between the regular survival pension and the special “grace” survival pension (“*no contributiva*”).

The Van Boven report considers that “rehabilitation shall be provided and will include medical and psychological care as well as legal and social services”.

Some of it has been achieved through the program of integral health care for victims of human rights violations of the Health Ministry. (“*Programa de Atención Integral de Salud, PRAIS*”). Legal and social services have been provided through Law 19,123 and the Human Rights Office.

Finally, the text says that “satisfaction and guarantees of non-repetition shall be provided, including, as necessary: (a) Cessation of continuing violations; (b) Verification of the facts and full and public disclosure of the truth; (c) An official declaration or a judicial decision restoring the dignity, reputation and legal rights of the victim and/or of persons closely connected with the victim; (d) Apology, including public acknowledgement of the facts and acceptance of responsibility; (e) Judicial or administrative sanctions against persons responsible for the violations; (f) Commemorations and paying tribute to the victims; (g) Inclusion in human rights training and in history or school textbooks of an accurate account of the violations committed in the field of human rights and international humanitarian law; (h) Preventing the recurrence of violations by such means as: (i) Ensuring effective civilian control of military and security forces; (ii) Restricting the jurisdiction of military tribunals only to specifically military offences committed by members of the armed forces; (iii) Strengthening the independence of the judiciary; (iv) Protecting persons in the legal profession and human rights defenders; (v) Conducting and strengthening, on a priority and continued basis, human rights training to all sectors of society, in particular to military and security forces and to law enforcement officials”.

“Verification of the facts and full and public disclosure of the truth” was the main purpose of the Rettig Commission. Regarding “commemorations and paying tribute to the victims”, a memorial for the disappeared and the executed for political reasons - stating the names of victims- was built in the General Cemetery. Other memorials were placed in different cemeteries and areas of the country where remains have been found.

The figure of President Salvador Allende was restituted its dignity as Chief of State by moving his remains from a grave in Valparaíso, where he was buried by the military, to the Presidents Mausoleum in the General Cemetery, in Santiago. A statue of Allende was erected near a former entrance to the Presidential Palace where his dead body was taken out after the coup.

From its budget for 2002, the Human Rights Office assigned US\$ 85,700 (\$ 60 million pesos), half the funds required for a memorial for the disappeared in the southern city of Talca. The other half will come from regional funds.

Guarantees of non-repetition, as stated in the UN Report, are the weakest aspect of Chile’s transitional justice. There has been no apology by perpetrators or by the military

institutions. The only public acknowledgement of the facts by the military was the acceptance that persons had been thrown to the sea, after the *Mesa de Diálogo* talks. This acknowledgement was not an acceptance of institutional responsibility, but was considered the result of individual “excesses”.

The Amnesty law, the nature of the Judiciary and the excessive competence of military courts have made judicial sanctions against persons responsible for the violations extremely low. Some administrative sanctions have been applied, such as hindering promotions of officers involved in human rights violations. Civilian control over the military and security forces has not been achieved, given the institutional constraints of the 1980 Constitution and the budgetary autonomy of the military.

The role of reparations

The need to provide reparations for human right violations was included in the tasks assigned to the Truth and Reconciliation Commission. The commission recommended symbolic and material compensations to victims and their relatives.

The government coalition of center-left parties acknowledged a continuity of the State, despite the change of regime from dictatorship to democracy. Under that premise, President Patricio Aylwin asked for pardon for these crimes when releasing the report of the Rettig Commission. The State was held responsible for compensating victims of human rights violations. The relatively small number of executed and disappeared (less than 4,000), compared to cases such as Argentina, where reparations were mainly symbolic, or South Africa, where the apartheid regime lasted 40 years affecting millions, made this task plausible.

No records of the monetary amount of compensations given to victims of human rights violations or the number of beneficiaries of these policies are available. According to Julio Samuel Valenzuela (Lecture, 2002) reparations have reached around 250,000 persons.

In the case of pensions for exonerated, reparations increased substantially in time. Law 19,582 extended the deadline to apply established in the previous Law 19,234; it also increased the amount of months paid per year of contribution to the system from 2 to 6, 4 or 3 months, depending on the moment of exoneration. In increasing the benefits, priority was given to the first exonerated after the coup over those who lost their jobs later in time.

Some exonerated did not apply to the benefits of this law in the first years of democracy for lack of information or for fear of being singled out as political opponents to the former military regime. The situation reversed in time, to end with public protests by exonerated requesting a third law to increase the amount of reparations.¹⁹

¹⁹ In April 2002, the President of the Chamber of Deputies, Adriana Muñoz (a member of socialist-tendency PPD Party) ordered to expulse from the building of Congress a group of around 70 exonerated,

The more expensive reparations provided by the Chilean State are oriented to close relatives of victims of human rights violations who were killed and disappeared by the dictatorship. These reparations take the form of auxiliary pensions (“*pensiones asistenciales*”) for the widow or children. Despite the significance of these programs, pensions are low, not enough to sustain a decent standard of life for the beneficiary. The persons with higher income are also those who can maintain for years legal pleas against the State, and obtain the highest compensations, not by a special policy of reparations, but by a private judicial proceeding against the state.

The number of beneficiaries and funds assigned to reparations is, as a total, still increasing in time. Despite that fact, the persons that apply to reparations programs and the number of beneficiaries decreases every year, as the date of the crimes becomes more distant. Pensions assigned to mothers or fathers of persons disappeared or executed by the dictatorship decrease as parents die. Pensions assigned to children also decrease, since they cover only until 25 years of age, as children get older. Educational benefits for children of victims decrease as they cover until 35 years of age. The budget for compensations through Law 19,123 is sharply decreasing in time. Marginal increases in benefits include handicapped children and delayed applications due to lack of information or fear.

On the other hand, the policy of economic compensations has a strong symbolic effect as an acknowledgement by the State that human rights violations occurred and were wrong. People have said they remember their relatives and feel this recognition every time they receive their check (Valenzuela, Lecture 2002). But this recognition is not general. The ideal of a shared truth, set by the Rettig Commission, has not been achieved. After the works of the Rettig Commission and the *Mesa de Diálogo* talks, human rights violations are mostly undeniable, but their description as a State policy is not widely accepted. Instead, many consider them as the result of excesses by some of the military or policemen fighting what amounted to a “war” against communism.

The programs to assist victims began during the years of the dictatorship in religious organizations and NGOs. Foreign cooperation for human rights, the main resource of these organizations, decreased sharply after the return to democracy. Still, there are civil society and victim’s organizations and NGOs dedicated to the defense and promotion of human rights, sometimes complementing the work by the State and sometimes opposing it. Groups of relatives of victims and of human rights lawyers, for example, opposed the *Mesa de Diálogo* talks. In addition to these organizations’ parallel attempts of reparation and memory, some academic institutions that fired political opponents to the dictatorship have held ceremonies of recognition to these persons, and publicly acknowledged the unfairness of their expulsions.

The government’s programs of reparations began with the Rettig Commission and continued with the Corporation for Reparation and Reconciliation. When that office

who demanded a third law to give them reparations. Adriana Muñoz made them leave the room, but met later with them to discuss their request. (La Tercera, April 3 2002.)

disappeared, in 1996, the Human Rights office of the Ministry of the Interior followed up its work. But the different compensations and reparations programs were never centralized.

The decentralization of reparations plans depending on the social security office, the health ministry or the education ministry according to their specific characteristic, made each program a marginal office in a bureaucracy more concerned with other issues. Thus, the exonerated program is just one more among the many tasks administered by the social security system, and the integral health care program for victims of human rights abuses has an extremely low profile in the context of national health plans.

Although this feature seems to lower the status of reparations, it may have helped compensatory programs to slowly increase benefits, without getting much public and political attention. At the same time, it may have had a positive outcome in social recognition, since different organisms of the State acquired responsibilities towards victims of the dictatorship, instead of leaving that task to one human rights office, with a politicized profile.

A frequent complaint by human rights advocates in Chile is the amount of legal paperwork necessary to apply to these benefits. A striking failure of the policy is the complete absence of the victims of torture from official records and from any reparation policy.

Many of the disappeared and executed by the dictatorship left no relative to benefit from compensatory provisions²⁰. In a substantial number of cases, victims were young, had no children and their parents died. For these victims, compensatory provisions have no implication in the sense of contributing to do justice.

6. Conclusions

The South African Commission's work included assessing the truth, suggesting reparation policies and hearing applications for amnesty. The Chilean commission only shared with this Commission the first two tasks. In South Africa, hearings were open to the media and the general public; in Chile, they were secret. Unlike the Chilean Commission, the South African Commission had powers of subpoena and of search and seizure.

The capacity of the South African Commission to grant amnesty gave an incentive for perpetrators to participate in it: "Perpetrators have come forward not in their scores, not in their hundreds but in their thousands, to confess their involvement in gross human rights violations". (Boraine, p. 14) In Chile, the assessment of the truth by the Commission was almost unilateral, fed mainly by victims' statements. Only after the *Mesa de Diálogo*, in 1998, the military acknowledged some of their crimes. Amnesty, in this case, was not an initiative of the new democracy, but a unilateral self-pardon decreed by perpetrators. Amnesty was accepted together with a wider package of enclaves,

²⁰ A point made by Victoria Baeza, from the Human Rights Office of the Ministry of the Interior.

including the binominal electoral system, appointed senators and a role for the military as institutional guarantors of the institutional system. In practice, the application of amnesty was left in Chile to the courts. The Rettig Commission and its follow up offices had to inform the judiciary of the criminal information gathered during their investigations.

“For South Africa, as in many other countries, the central tension has been between the politics of compromise and the radical notion of justice” (Boraine, p.14). In Chile, human rights lawyer and member of the Rettig Commission José Zalaquett conceptualized that tension in terms of Max Weber’s distinction between the ethics of conviction and the ethics of responsibility²¹: “Political leaders cannot afford to be moved only by their convictions, oblivious to real-life constraints, lest in the end the very ethical principles they wish to uphold suffer because of a political or military backlash. In the face of a disaster brought about by their own misguided actions, politicians cannot invoke as a justification that they never yielded on matters of conviction” (Zalaquett 1992, p. 1429).

The traumatic experience of the 3-year socialist government of Salvador Allende (1970-1973) and the 1973 military coup determined the Chilean center-left political elite approach to compromise. Leaders of the *Concertación* coalition learned from dramatic past mistakes the value of political responsibility. As a result, they have been criticized for giving up too much, too quick, to demands of the military and the political right. In the negotiated transition to democracy, they seem to have been too prone to give up legitimate aspirations in order to ensure compliance by their opponents to the new rules of the game. Chilean historian Alfredo Jocelyn Holt defined that changes as a switch from “ahead without compromise” to “non-stop compromise”: *Del avanzar sin transar al transar sin parar*. Chile did not achieve a fully democratic system, but a limited democracy.

The lack of justice and the high level of élite compromise brought the Chilean society a discontent defined by Wilde, 1999 as “irruptions of memory”. These irruptions are “public events that break in upon Chile’s national consciousness, unbidden and often suddenly, to evoke associations with symbols, figures, causes, ways of life which to an unusual degree are associated with a political past that is still present in the lived experience of a major part of the population” (Wilde 1999, p. 475).

During these “irruptions”, the public discourse is deeply divided, revealing “contending and mutually exclusive representations of the past” (Wilde 1999, p. 475). While the political élites are almost obsessed with consensus building, an undercurrent of violence and a sense of injustice remain latent in the Chilean society. Wilde contests the idea that

²¹ “The approach of democratic leaders in such difficult transitional situations should, then, be based on the ethical maxim that Max Weber lucidly characterized in his famous lecture, *Politics as a Vocation*: political leaders should be guided by the ethics of responsibility, as opposed to the ethics of conviction. Weber explained that an ethic of responsibility does not imply a lack of conviction, just as an ethic of conviction does not imply a lack of responsibility. He stressed the fundamental difference between acting according to an ethical precept regardless of the outcome, and acting while considering the predictable consequences of one’s action. In Weber’s view, politicians must always be guided by an ethic of responsibility” (Zalaquett, 1992, p.1430).

truth may bring reconciliation. At a social level, there can be no trade-off between truth and justice.

Despite strong institutional and political limitations, time and changes in the political context as well as in the judiciary have broadened Chile's limited justice. The reform of the judiciary facilitated the promotion of younger judges, a new interpretation of amnesty that provided for investigation before closing cases, and the appointment of special judges to investigate human rights cases. As shown in section 4 of this paper, after the *Mesa de Diálogo* roundtable talks, some perpetrators have been put in jail, some cases have been reopened, and some acknowledgement by the military of their atrocities has been achieved.

In the beginning of the Latin American "third wave of democratizations", the model for Latin American transitions to democracy was the Spanish case. The solution for human rights violations of the past by the Franco regime was an agreement not to prosecute those responsible of these violations. But as President Lagos said to the Spanish newspaper *El Mundo*, "There is a difference between a transition you do 40 years after the facts occurred, and a transition 17 years after the facts. In Chile, most of the cases for disappeared persons are in the courts, and are being investigated. In the private part of my office, I have the picture of a classmate from university, who died in La Moneda. For me, this is much closer in time. It is not a memory of something that happened to my father". (*El Mundo*, May 12 2002, my translation)

The Rettig Commission was not intended as a proxy for justice. It was expected to legitimize before the public a hidden truth about human right violations by the dictatorship, and to prevent the possibility of denial of the facts occurred during the 17 years of military rule.

"Justice within the realm of what is possible" -as stated by President Patricio Aylwin (1990-1994)- was to be achieved through legal processes in the courts. But the judges in those courts were those the regime allowed to continue their career in the judiciary, against the price of full compliance with the military and no prosecution of human rights violators. The composition of the judiciary did not change during the first years of democracy. The maintenance of the 1978 Amnesty law and the role of military courts remained major legal obstacles for justice in cases of human rights violations after transition to democracy.

These features resulted from the negotiated character of Chile's transition to democracy. The military anticipated from the very beginning of their rule an eventual return to democracy, and declared the Junta's rule a provisional government. They also gave themselves an institutional task: to create a new political system to replace the party system and the political confrontation they saw as a disease of Chilean politics. To achieve that goal, they designed a plan that included a new Constitution, a new role for the armed forces as guarantors of the institutional order and a new electoral system, among others. Most of these were strongly protected in the negotiations prior to transition to democracy and remained in place under the new regime. The situation of transitional

justice in Chile is a direct result of the enclaves the dictatorship installed in the new democracy.

The Rettig Commission did reduce the number of lies in public discourse. It should not be judged as the final response to human rights violations, but as a modest step forward.

The passing of time, the decrease of fear, and the reform of the judiciary have played a positive role in broadening the space for justice. The increasing existence of a shared truth, the continuation of investigations about the disappeared and state sponsored reparations to victims are steps forward in broadening the limits of a severely constrained justice.

Together with the institutionalized consented truth and the legitimization of victims as such, reparations have led to more reparations. This has happened in a silent way. While findings of remains of the disappeared continue to occupy news headlines, state sponsored reparation, compensation and rehabilitation is a silent matter hidden in small offices inside ministries. At the margin of the government's priorities, their low profile may be one of the reasons for their increasing reach.

Most perpetrators are retired from the armed forces or intelligence bodies they belonged to when they participated in the crimes. Some have died in their old age without any punishment and even acknowledgement of their wrongdoing. But the retired and some active officers still face a threat of being tried for human rights violations during the dictatorship. After the detention of Pinochet in London, a new judicial impulse has reopened cases and made progress in investigations. Truth and reparations, the aspects where Chile had achieved progress despite extremely low punishment of perpetrators, have in the end helped the cause of justice, not played against it.

References

Boraine, Alex. (Paper) *South African Truth and Reconciliation Commission: The Third Way*.

Correa Sutil, Jorge in collaboration with Francisco Jiménez. 1997. "No Victorious Army has Ever Been Prosecuted...": The Unsettled Story of Transitional Justice in Chile". In *Transitional Justice and the Rule of Law in New Democracies*. Edited by A. James McAdams. University of Notre Dame Press, USA.

Gahona, Yuri. April 2002. *Reparación por Violaciones de Derechos Humanos: ¿Qué reparan las medidas, leyes y políticas de reparación?*. Dissertation, M.A. in Social Sciences, Universidad de Chile.

Hayner, Priscilla. 2002 *Unspeakable Truths: Facing the Challenge of Truth Commissions*. New York, Routledge

Kritz, Neil J. (Editor) 1995 *Transitional Justice. How emerging democracies reckon with former regimes* Washington, U.S. Institute of Peace Press (3 Volumes).

Lira, Elizabeth. July 2001. *La Mesa de Diálogo de Derechos Humanos: un año después. ¿Compromiso cumplido?* Revista Mensaje
<http://www.mensaje.cl/2001/julio/politicap.htm>

Nino, Carlos Santiago. 1996. *Radical Evil on Trial*. Yale University Press, USA.

Pinochet, Augusto. London, December 1998. *Carta a los Chilenos* ("Letter to the Chilean") <http://www.movimientovitalicio.terra.cl/carta.htm>

Tepperman, Jonathan "Truth and Consequences". March / April 2002. *Foreign Affairs*, Volume 81, Number 2 (pages 128-145).

Van Boven, Theo. 1997. *Basic principles and guidelines on the right to reparation for victims of violations of human rights and international humanitarian law* (revised). U.N. Economic and Social Council (ECOSOC). E/CN.4/1997/104

Wilde, Alexander. 1999. "Irruptions of Memory: Expressive Politics in Chile's Transition to Democracy" *Journal of Latin American Studies*, No. 31. Cambridge University Press, UK.

Zalaquet, José. April 17, 1991. "The Ethics of Responsibility: Truth and Reconciliation in Chile". *Transcript of a seminar with José Zalaquett Daher*. Washington Office on Latin America (WOLA), *Issues in Human Rights*, Washington DC.

Zalaquett, José. August 1992. "Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations". *Hastings Law Journal* Volume 43, Number 6. University of California.

Websites

- ?? Comisión Interamericana de Derechos Humanos- OEA Informe 1979 / 80:
<http://www.cidh.oas.org/annualrep/79.80sp/cap.5.htm>
- ?? U.N. Office of the High Commissioner for Human Rights: Independent Expert of the Commission on Human Rights on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms <http://www.unhchr.ch/html/menu2/7/b/mrest.htm>
- ?? Fundación de Ayuda Social de las Iglesias Cristianas, FASIC www.fasic.org
- ?? Fundación de Documentación y Archivos de la Vicaría de la Solidaridad. *Informe de Derechos Humanos 1997*. www.iglesia.cl/santiago/vicariasolidaridad
- ?? Memoria Viva www.memoriaviva.com
- ?? Instituto de Normalización Previsional, INP www.inp.cl
- ?? Memoria y Justicia www.memoriayjusticia.cl
- ?? Derechos Chile <http://www.derechoschile.com/english/resour.htm>

Press Clips

- ?? Cheyre: Las responsabilidades son individuales y no afectan al Ejército. El Mercurio, 7th August 2002
- ?? Fallo de primera instancia: 12 condenados y 4 absueltos por crimen de Tucapel Jiménez. El Mercurio, August 6th 2002
- ?? Duelo nacional por muerte de Raúl Rettig, La Tercera, May 1st 2000
<http://www.tercera.cl/diario/2000/05/01/t-01.18.3a.POL.RETTIG.html>
- ?? Juez Mario Carroza y procesos de dedicación exclusiva: "Si procede una condena, se tendrá que hacer" La Segunda, March 26 2002
http://www.lasegunda.com/EdicionImpresa/nacional/detalle_noticia.asp?idnoticia=0226032002301S0310004
- ?? "Presidenta de la Cámara ordenó desalojo de exonerados". La Tercera, April 3 2002
- ?? <http://www.hrw.org/campaigns/race/reparations.htm>
- ?? <http://www.nytimes.com/2002/04/14/national/14SLAV.html>
- ?? <http://globalarchive.ft.com/globalarchive/article.html?id=020410001112>
- ?? "Supreme Court Reiterates Amnesty Limits". Chip News (e-news). June 28, 2002.
- ?? Primera Línea, www.primeraline.cl
- ?? "Derechos Humanos, la preocupación se mantiene" La Tercera, July 7, 2002
- ?? Fundación de documentación y archivos de la Vicaría de la Solidaridad:
<http://www.iglesia.cl/santiago/vicariasolidaridad/>
- ?? *El Mundo*, Sunday May 12 2002 Spain
<http://www.elmundo.es/2002/05/12/opinion/1142029.html>